

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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HILDA MARGARITA ACOSTA CUEVAS,

USDC SDNY
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DATE FILED: 3/10/22

Plaintiff,

v.

20-CV-0502 (KMW) (KHP)

**ORDER ADOPTING REPORT &
RECOMMENDATION**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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KIMBA M. WOOD, United States District Judge:

Hilda Margarita Acosta Cuevas (“Plaintiff”) brings this action pursuant to 42 U.S.C. § 405(g) challenging the decision of the Commissioner of the Social Security Administration (“Commissioner”) denying her application for Social Security Disability and Supplemental Security Income benefits.

On January 29, 2021, Magistrate Judge Parker issued a Report and Recommendation (“Report”) recommending that the Court grant Plaintiff’s motion for judgment on the pleadings and deny the Commissioner’s cross-motion. (ECF No. 26.) The Court assumes familiarity with the facts of this case. The Court has carefully reviewed the Commissioner’s objections to the Report and adopts Judge Parker’s Report, with the exception of a very minor modification to one citation.

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court reviews *de novo* those portions of the report to which specific objections are made. *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). However, to the extent that a party makes conclusory or general objections, or “attempt[s] to

engage the district court in a rehashing of the same arguments set forth in the original petition,” the court reviews the report for clear error. *Jules v. Cosm. & Reconstruction Dentistry*, No. 19-CV-5008 (VEC), 2020 WL 64759, at *1 (S.D.N.Y. Jan. 7, 2020) (Caproni, J.) (quoting *Ortiz v. Barkley*, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008) (Holwell, J.)).

The Commissioner makes two objections to the Report. First, the Commissioner objects to the Report’s conclusion that the Administrative Law Judge’s decision was based on an insufficiently developed record. Next, the Commissioner contends that the Report did not properly evaluate medical opinion evidence in accordance with the 2017 revisions to the Social Security Administration’s regulations.

After carefully reviewing the Report for clear error, the Court hereby adopts Judge Parker’s well-reasoned Report, with one, non-substantive modification.¹ The Court replaces the citation to 20 C.F.R. § 404.1512(d) with 20 C.F.R. § 404.1512(b).

Accordingly, Plaintiff’s motion for judgment on the pleadings is granted, and the Commissioner’s cross-motion is denied. The case is remanded to the Commissioner for additional proceedings in accordance with the Report.

¹ The Court reviews *de novo* the Commissioner’s two specific assertions. Both assertions are in support of his second objection. First, the Commissioner asserts that even if the ALJ’s analysis of the medical opinions of Drs. Putcha and Saeed was flawed, further proceedings would serve no purpose because the ALJ’s conclusion benefits Plaintiff. (Objection at 13, ECF 28.) Second, the Commissioner asserts that the Report improperly categorizes and analyzes evidence from Drs. Sanchez, Herivaux, Patel, and Tieng, and nurse practitioner Del Campo. (*Id.* at 14.) The Court concurs in Judge Parker’s analysis and adopts the relevant part of the Report.

The Clerk of Court is directed to enter judgment accordingly and close the case. Any pending motions are moot.

SO ORDERED.

Dated: New York, New York
March 10, 2022

/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge